

HOUSE BILL 2444
By Johnson

AN ACT to amend Tennessee Code Annotated, Title 68, relative to
litter control.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding Sections 2
through 7 of this act as a new chapter 204.

SECTION 2. As used in this act:

(1) "Beverage" means a soft drink, soda water, carbonated natural or mineral
water, or other nonalcoholic carbonated drink; beer, ale, or other malt drink of whatever
alcoholic content; or a mixed wine drink or a mixed spirit drink.

(2) "Beverage container" means an airtight metal, glass, paper, or plastic
container, or a container composed of a combination of these materials, which, at the
time of sale, contains one (1) gallon or less of a beverage.

(3) "Dealer" means a person who sells or offers for sale to consumers within this
state a beverage in a beverage container, including an operator of a vending machine
containing a beverage in a beverage container.

(4) "Distributor" means a person who sells beverages in beverage containers to
a dealer within this state, and includes a manufacturer who engages in such sales.

(5) "Empty returnable container" means a beverage container which contains nothing except the residue of its original contents.

(6) "Manufacturer" means a person who bottles, cans, or otherwise places beverages in beverage containers for sale to distributors, dealers, or consumers.

(7) "Mixed spirit drink" means a drink containing ten percent (10%) or less alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives; or any spirits-based beverage, regardless of the percent of alcohol by volume, that is manufactured for sale in a metal container.

(8) "Mixed wine drink" means a drink or similar product marketed as a wine cooler and containing less than seven percent (7%) alcohol by volume, consisting of wine and plain, sparkling, or carbonated water and containing any one (1) or more of the following:

(A) Nonalcoholic beverages.

(B) Flavoring.

(C) Coloring materials.

(D) Fruit juices.

(E) Fruit adjuncts.

(F) Sugar.

(G) Carbon dioxide.

(H) Preservatives.

(9) "Nonrefillable container" means a returnable container which is not intended to be refilled for sale by a manufacturer.

(10) "Nonreturnable container" means a beverage container upon which no deposit or a deposit of less than ten cents (\$.10) has been paid, or is required to be paid

upon the removal of the container from the sale or consumption area, or for which no cash refund or a refund of less than ten cents (\$.10) is payable by a dealer or distributor in this state of that beverage in beverage containers, as further provided in Section 3.

(11) "Operator of a vending machine" means equally its owner, the person who refills it, and the owner or lessee of the property upon which it is located.

(12) "Person" means an individual, partnership, corporation, association, or other legal entity.

(13) "Returnable container" means a beverage container upon which a deposit of at least ten cents (\$.10) has been paid, or is required to be paid upon the removal of the container from the sale or consumption area, and for which a refund of at least ten cents (\$.10) in cash is payable by every dealer or distributor in this state of that beverage in beverage containers, as further provided in Section 3.

(14) "Sale or consumption area" means the premises within the property of the dealer or of the dealer's lessor where the sale is made, within which beverages in returnable containers may be consumed without payment of a deposit, and, upon removing a beverage container from which, the customer is required by the dealer to pay the deposit.

(15) "Within this state" means within the exterior limits of Tennessee, and includes the territory within these limits owned by, or ceded to, the United States of America.

SECTION 3. (a) A dealer within this state shall not sell, offer for sale, or give to a consumer a nonreturnable container or a beverage in a nonreturnable container. A dealer shall not sell a beverage in a beverage container unless a deposit of at least ten cents (\$.10) per beverage container has been collected.

(b) A dealer who regularly sells beverages for consumption of the dealer's premises shall provide on the premises, or within one hundred (100) yards of the premises on which the

dealer sells or offers for sale a beverage in a returnable container, a convenient means whereby the containers of any kind, size, and brand sold or offered for sale by the dealer may be returned by, and the deposit refunded in cash to, a person whether or not the person is the original customer of that dealer, and whether or not the container was sold by that dealer.

(c) Regional centers for the redemption of returnable containers may be established, in addition to, but not as substitutes for, the means established for refunds of deposits prescribed in subsection (b).

(d) Except as provided in subsections (e) and (g), a dealer shall accept from a person an empty returnable container of any kind, size, and brand sold or offered for sale by that dealer and pay to that person its full refund value in cash.

(e) A dealer who does not require a deposit on a returnable container when the contents are consumed in the dealer's sale or consumption area is not required to pay a refund for accepting that empty container.

(f) Except as provided in subsection (g), a distributor shall accept from a dealer an empty returnable container of any kind, size, and brand sold or offered for sale by that distributor and pay to the dealer its full refund value in cash.

(g) Each beverage container sold or offered for sale by a dealer within this state shall clearly indicate by embossing or by a stamp, a label, or other method securely affixed to the beverage container, the refund value of the container and the name of this state. A dealer or distributor may, but is not required to, refuse to accept from a person an empty returnable container which does not state on the container the refund value of the container and the name of this state. This subsection does not apply to a refillable container having a refund value of less than ten cents (\$.10), having a brand name permanently marked on it, and having a securely affixed method of indicating that it is a returnable container.

(h) A person, dealer, distributor, or manufacturer shall not return an empty container to a dealer for a refund of the deposit if a dealer has already refunded the deposit on that

returnable container. This subsection does not prohibit a dealer from refunding the deposit on an empty returnable container each time the returnable container is sanitized by the manufacturer and reused as a beverage container.

(i) A dealer may accept, but is not required to accept, from a person, empty returnable containers for a refund in excess of twenty-five dollars (\$25) on any given day.

(j) A manufacturer shall refund the deposit paid on any container returned by a distributor for which a deposit has been paid by a distributor to the manufacturer.

(k) Subsections (d), (f), and (g) apply only to a returnable container that was originally sold in this state as a filled returnable container.

SECTION 4. Unclaimed deposits on returnable containers are considered to be the property of the person purchasing the returnable container and are not the property of the distributor or manufacturer who originated the deposit.

SECTION 5. Except as provided in Section 6 or 7, a person, dealer, distributor, or manufacturer who violates this act is subject to a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) and is liable for the costs of prosecution. Each day a violation occurs, a separate offense is committed.

SECTION 6. (a) A person shall not return or attempt to return to a dealer for a refund one (1) or more of the following:

(1) A beverage container that the person knows or should know was not purchased in this state as a filled returnable container.

(2) A beverage container that the person knows or should know did not have a deposit paid for it at the time of purchase.

(b) A person who violates subsection (a) is subject to one (1) of the following:

(1) If the person returns twenty-five (25) or more but not more than one hundred (100) nonreturnable containers, the person is guilty of a Class B misdemeanor punishable only by a fine of not more than one hundred dollars (\$100).

(2) If the person returns more than one hundred (100) nonreturnable containers or violates subdivision (a) for a second or subsequent time, the person is guilty of a Class B misdemeanor punishable only by a fine of not more than five hundred dollars (\$500).

(c) A person found guilty under this subsection shall be ordered by the court to pay restitution equal to the amount of loss caused by the violation.

SECTION 7. In that portion of the dealer's premises where returnable containers are redeemed, a dealer shall post a notice that says substantially the following: "A person who returns for refund an out-of-state nonreturnable container is subject to penalties of a fine of five hundred dollars (\$500) and restitution." A dealer who fails to comply with this section is guilty of a Class C misdemeanor and is subject only to a fine of not more than fifty dollars (\$50).

SECTION 8. This act shall take effect July 1, 2002, the public welfare requiring it.